

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA**

IN RE: :
 :
PAYMENT OF FILING FEE : **GENERAL ORDER NO. 4-2005**
IN INSTALLMENTS TO COMMENCE :
BANKRUPTCY CASE UNDER BAPCPA :

ORDER

This Order is effective as to all cases filed on or after October 17, 2005, and, as to those cases, it replaces General Order No. 11. General Order No. 11 continues to apply to cases filed from July 15, 2004 through October 16, 2005.

Section 1930(a)(7) of Title 28 of the United States Code allows an individual to pay the filing fee in installments. Subsection (b) of Interim Bankruptcy Rule 1006 permits an individual to file a signed Application, along with the Petition, stating that Debtor is unable to pay the filing fee except in installments. Accordingly, it is ORDERED that:

1. With regard to voluntary individual Chapter 7 Debtors unable to pay the filing fee except in installments, the Clerk is authorized to accept for filing a Petition initiating a voluntary individual Chapter 7 case without payment in full of the filing fee, provided that the petition is accompanied by a signed Application to pay the filing fee in installments. The number of installments shall not exceed four, and the final installation shall be payable not later than 120 days from the date the petition is filed.¹ A minimum installment payment of \$75.00 must accompany the Application and Petition, **except that if Debtor is unable to make the**

¹ Nothing in this General Order No. 4-2005 should be construed to prevent an individual Chapter 7 Debtor, who meets the requirements of 28 U.S.C. § 1930(f) and Interim Bankruptcy Rule 1006(c), from requesting a waiver of the Chapter 7 filing fee.

initial filing fee payment at the time of filing, an Order will be entered requiring Debtor to make the initial filing fee payment of \$75.00 within 10 days following the date the Petition is filed. If Debtor fails to make the initial filing fee installment payment within the time specified, Debtor's case may be dismissed without further notice or opportunity for hearing.

Additionally, the Application to pay the filing fee in installments must provide that the second installment shall be in an amount not less than one-third of the unpaid balance of the filing fee and shall be due and payable on or before 40 days from the Petition date; the third installment shall be in an amount not less than one-third of the unpaid balance of the filing fee and shall be due and payable on or before 80 days from the Petition date; and the final installment shall equal the remaining unpaid balance of the filing fee and shall be due and payable on or before 120 days from the Petition date. If the Debtor does not timely pay the second, third, or final filing fee installment payment within the time specified, Debtor's case may be dismissed without further notice or opportunity for hearing.

2. With regard to voluntary individual Chapter 11 Debtors unable to pay the filing fee except in installments and subject to the provisions of paragraph 4 below, the Clerk is authorized to accept for filing a Petition initiating a Chapter 11 case without payment in full of the filing fee, provided that the Petition is accompanied by an Application to pay the filing fee in installments, with the number of installments not to exceed three. A minimum installment payment of \$339.00 must accompany the Petition and Application, **except that if Debtor is unable to make the initial filing fee payment at the time of filing, an Order will be entered**

requiring Debtor to make the initial filing fee payment of \$339.00 within 10 days following the date the Petition is filed. If Debtor fails to make that initial filing fee installment payment within the time specified, Debtor's case may be dismissed without further notice or opportunity for hearing.

Additionally, the Application to pay the filing fee in installments must provide that the second installment shall be in an amount not less than one-half of the unpaid balance of the filing fee and shall be due and payable on or before 30 days from the Petition date and that the final installment amount shall equal to remaining unpaid balance of the filing fee and shall be due and payable on or before 60 days from the Petition date. If the Debtor does not timely pay the second or the final filing fee installment payment, the Clerk will issue a Deficiency Notice and Debtor's failure to pay by the date set in the Deficiency Notice will constitute cause warranting dismissal of the case without further notice or opportunity for hearing.

3. With regard to Chapter 13 Debtors unable to pay the filing fee except in installments and subject to the provisions of paragraph 4 below, the Clerk is authorized to accept for filing a Petition initiating a Chapter 13 case without payment in full of the filing fee, provided that the petition is accompanied by a signed Application to pay the filing fee in installments, with the number of installments not to exceed three. A minimum payment of \$75.00 must accompany the Application and Petition, **except that if Debtor is unable to make the initial filing fee payment at the time of filing, an Order will be entered requiring Debtor to make the initial filing fee payment of \$75.00 within 10 days following the date the Petition is filed.** If Debtor fails to make the initial filing fee installment payment within

the time specified, Debtor's case may be dismissed without further notice or opportunity for hearing.

Additionally, the Application to pay the filing fee in installments must provide that the second installment shall be in an amount not less than one-half of the unpaid balance of the filing fee and shall be due and payable on or before 30 days from the Petition date and that the final installment amount shall equal the remaining unpaid balance of the filing fee and shall be due and payable on or before 60 days from the Petition date. If the Debtor does not timely pay the second or the final filing fee installment payment, the Clerk will issue a Deficiency Notice and Debtor's failure to pay by the date set in the Deficiency Notice will constitute cause warranting dismissal of the case without further notice or opportunity for hearing.

4. In individual Chapter 11 or Chapter 13 cases, if Debtor files an application to pay the filing fee in installments and the Court's records show that Debtor has been a Debtor in a prior case in which Debtor failed to pay the full filing fee in installments and then defaulted on that obligation, Debtor will not be permitted to pay the filing fee in installments. In that event, Debtor must pay the filing fee in full, within 10 days following the date the Petition is filed. If Debtor fails to pay timely the filing fee in full as required, Debtor's pending case will be dismissed and the automatic stay, to the extent applicable, will be annulled *ab initio* as of the date of the filing of the Petition.

If the Clerk inadvertently accepts Debtor's application to pay the filing fee in installments when Debtor has failed to pay the full filing fee in a prior case, Debtor will be served with a Deficiency Notice requiring payment of the full filing fee within 10 days

following the date the Petition is filed. If Debtor fails to pay timely the filing fee in full within the time specified, Debtor's pending case will be dismissed and the automatic stay, to the extent applicable, shall be annulled *ab initio* as of the date of the filing of the Petition.

5. Payment of the filing fee in installments does not modify the obligation of Debtor to pay the filing fee in full even in the event that Debtor's case is dismissed prior to payment of the filing fee in full.

6. All filing fee payments shall be made to the Clerk of court in cases under all Chapters, including Chapter 13. ALL PAYMENTS MUST BE MADE BY CASH, U.S. POST OFFICE MONEY ORDER, ATTORNEY'S CHECK, OR TRUSTEE'S CHECK, PAYABLE TO "CLERK, UNITED STATES BANKRUPTCY COURT."

7. In accordance with Interim Bankruptcy Rule 1006(b)(3), Debtor or, in a Chapter 13 case, the Chapter 13 Trustee will not make any payment to an attorney or other person who renders service in connection with the case until the filing fee is paid in full.

IT IS SO ORDERED, this 5th day of October, 2005.


JOYCE BIARY
UNITED STATES BANKRUPTCY JUDGE